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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/937,508	05/22/2002	Bruno Berge	BERGE-2	2187
22428	7590	09/04/2007	EXAMINER	
FOLEY AND LARDNER LLP			COLLINS, DARRYL J	
SUITE 500			ART UNIT	PAPER NUMBER
3000 K STREET NW			2873	
WASHINGTON, DC 20007				
MAIL DATE		DELIVERY MODE		
09/04/2007		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary	Application No.	Applicant(s)
	09/937,508	BERGE, BRUNO
	Examiner	Art Unit
	Darryl J. Collins	2873

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 21 June 2007.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-34,37,40,43,46 and 48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 1-34,37,40,43,46 and 48 is/are allowed.
- 6) Claim(s) _____ is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 - 10) The drawing(s) filed on 22 May 2002 and 30 September 2003 is/are: a) accepted or b) objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 06212007.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application
- 6) Other: _____.

DETAILED ACTION

Response to Arguments

Applicant's arguments, see page 12, seventh paragraph through page 13, third paragraph, filed June 21, 2007, with respect to claims 34, 37, 40 43 and 46 have been fully considered and are persuasive. The rejection of claims 34, 37, 40, 43 and 46 has been withdrawn.

The reply filed on June 21, 2007 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): The applicant has failed to provide the necessary information to comply with 37 CFR 41.202, in particular, 37 CFR 41.202(a)(1) –(6), as stated in the Office Action mailed December 22, 2006. See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Examiner's Comments

It should be noted that the applicant has failed to *formally* {emphasis added} request interference as noted on page 13, last paragraph, of the response filed June 21, 2007. However, it should be noted that the applicant has, at the very least, suggested an interference in the applicant's remarks filed March 23, 2006 –

“Applicant believes that the present application is now in condition for allowance, but for the resolution of an **interference** {emphasis added}. Favorable reconsideration of the application is respectfully requested.”

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"Applicant is grateful for the courtesies extended to applicant's representatives during the personal interview on February 8, 2006. Pending claims 20 & 23 and 25 & 28 were discussed in relation to claim 24 of U.S. Patent No. 6,702,483 (Tsuboi), with a view to suggesting an interference between that patent and this application; that formal suggestion will be submitted separately."

and again in applicant's remarks filed July 28, 2006 -

"This amendment adds claims of varying scope, including claims that are closer in language to claim 24 of Tsuboi, U.S. Patent No. 6,702,483."

Allowable Subject Matter

Claims 1-34, 37, 40, 43, 46 and 48 are allowed.

The following is an examiner's statement of reasons for allowance: The reasons for allowance for claims 1-33 are as set forth in the Office Action mailed December 22, 2007. As for claims 34, 37, 40, 43, 46 and 48, the prior art taken either singularly or in combination fails to anticipate or fairly suggest the limitations of the independent claims, in such a manner that a rejection under 35 U.S.C. 102 or 103 would be proper. Although the prior art teaches a variable-focus fluid lens, the prior art fails to teach such a lens having a fluid container wherein the side surface is inclined or flared forming a truncated cone as claimed in independent claims 34, 37, 40, 43 and 46.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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Conclusion

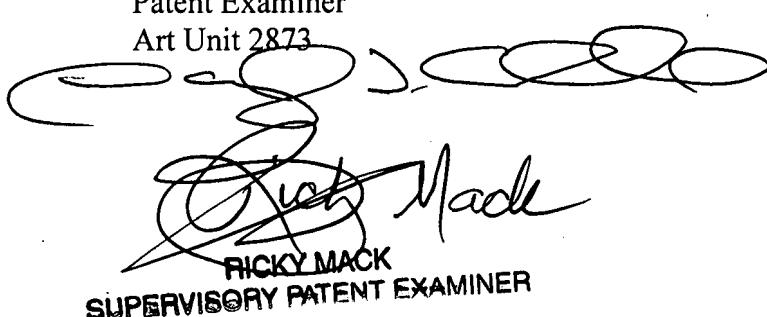
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Darryl J. Collins whose telephone number is 571-272-2325. The examiner can normally be reached on 6:30 - 5:00 Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Mack can be reached on 571-272-2333. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Darryl J. Collins
Patent Examiner
Art Unit 2873

30 August 2007


RICKY MACK
SUPERVISORY PATENT EXAMINER